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Oceans and the law of the sea

Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its seventh meeting

Letter dated 14 July 2006 from the Co-Chairpersons of the Consultative Process addressed to the President of the General Assembly

Pursuant to General Assembly resolutions 54/33 of 24 November 1999, 57/141 of 12 December 2002 and 60/30 of 29 November 2005, we were appointed as the Co-Chairpersons of the seventh meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea. We now have the honour to submit to you the attached report on the work of the Consultative Process at its seventh meeting, which was held at United Nations Headquarters from 12 to 16 June 2006.

In accordance with paragraph 3 (h) of General Assembly resolution 54/33, and bearing in mind General Assembly resolution 60/30 on oceans and the law of the sea, the seventh meeting agreed by consensus to a number of elements relating to ecosystem approaches and oceans, the area of focus of the meeting, to be suggested to the General Assembly for consideration under its agenda item "Oceans and the law of the sea", as set out in part A of the present report. A summary of the discussions held during the seventh meeting is presented in part B of the report. Part C contains information on additional issues that have been proposed for inclusion in the list of issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea.

We kindly request that the present letter and the report of the Consultative Process be circulated as a document of the sixty-first session of the General Assembly under the agenda item "Oceans and the law of the sea".

(*Signed*) Lorraine **Ridgeway** and Cristián **Maquieira**
Co-Chairpersons

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Part A

Agreed consensual elements to be suggested to the General Assembly for consideration under its agenda item entitled "Oceans and the law of the sea"

1. The seventh meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea ("the Consultative Process") met from 12 to 16 June 2006 and, pursuant to General Assembly resolution 60/30, organized its discussions as recommended in the resolution on the following area: ecosystem approaches and oceans.

2. On Friday, 16 June 2006, the meeting commenced its formal consideration of the elements proposed by the Co-Chairpersons. Following the discussions on the subject, the meeting reached an agreement on the elements relating to ecosystem approaches and oceans set out below.

1. Agreed consensual elements

3. Continued environmental degradation in many parts of the world and increasing competing demands require an urgent response and the setting of priorities for management interventions aimed at conserving ecosystem integrity.

4. Ecosystem approaches to oceans management should be focused on managing human activities in order to maintain and, where needed, restore ecosystem health to sustain goods and environmental services, provide social and economic benefits for food security, sustain livelihoods in support of international development goals, including those contained in the United Nations Millennium Declaration, and conserve marine biodiversity.

5. It was proposed that the General Assembly:

(a) Recall that States should be guided in the application of ecosystem approaches by a number of existing instruments, in particular the United Nations Convention on the Law of the Sea (UNCLOS), which sets out the legal framework for all activities in the oceans and seas, and its implementing Agreements, as well as other commitments, such as those contained in the Convention on Biological Diversity and the World Summit on Sustainable Development call for the application of an ecosystem approach by 2010; and

(b) Encourage States to cooperate and coordinate their efforts and take, individually or jointly, as appropriate, all measures, in conformity with international law, including UNCLOS and other applicable instruments, to address impacts on marine ecosystems in areas within and beyond national jurisdiction, taking into account the integrity of the ecosystems concerned.

6. While there is no universally agreed definition of an ecosystem approach, which is interpreted differently in different contexts, it was proposed that the General Assembly, invite States to consider that an ecosystem approach should, inter alia:

(a) Emphasize conservation of ecosystem structures and their functioning and key processes in order to maintain ecosystem goods and services;

(b) Be applied within geographically specific areas based on ecological criteria;

(c) Emphasize the interactions between human activities and the ecosystem and among the components of the ecosystem and among ecosystems;

(d) Take into account factors originating outside the boundaries of the defined management area that may influence marine ecosystems in the management area;

(e) Strive to balance diverse societal objectives;

(f) Be inclusive, with stakeholder and local communities' participation in planning, implementation and management;

(g) Be based on best available knowledge, including traditional, indigenous and scientific information and be adaptable to new knowledge and experience;

(h) Assess risks and apply the precautionary approach;

(i) Use integrated decision-making processes and management related to multiple activities and sectors;

(j) Seek to restore degraded marine ecosystems where possible;

(k) Assess the cumulative impacts of multiple human activities on marine ecosystems;

(l) Take into account ecological, social, cultural, economic, legal and technical perspectives;

(m) Seek the appropriate balance between, and integration of, conservation and sustainable use of marine biological diversity; and

(n) Seek to minimize adverse impacts of human activities on marine ecosystems and biodiversity, in particular rare and fragile marine ecosystems.

7. It was suggested that the General Assembly propose that implementation of an ecosystem approach could be achieved through, inter alia:

(a) Its inclusion in the development of national policies and plans;

(b) Encouraging and supporting marine scientific research, in areas within and beyond national jurisdiction, in accordance with international law;

(c) Understanding, through increased research, the impacts of changing climate on the health of marine ecosystems, and developing management strategies to maintain and improve the natural resilience of marine ecosystems to climate variations;

(d) Understanding, through increased research, the impacts of underwater noise on marine ecosystems and taking into account those impacts;

(e) Where appropriate, strengthening regional fisheries management organizations, adapting their mandates and modernizing their operations in accordance with international law;

(f) Strengthened and improved coordination and cooperation within, and, in accordance with international law, between and among States, intergovernmental

organizations, regional scientific research and advisory organizations and management bodies;

(g) Effective and full implementation of the mandate of existing multilateral organizations, including those established under UNCLOS;

(h) Application of the Rio Principles and the use of a broad range of management tools for the conservation and sustainable use of marine biodiversity, including sector specific and integrated area-based management tools on a case-by-case basis, based on the best available scientific advice and the application of the precautionary approach and consistent with international law;

(i) Identifying and engaging stakeholders to promote cooperation;

(j) Sectoral approaches and integrated management and planning on a variety of levels, including across boundaries, in accordance with international law;

(k) Effective integrated management across sectors;

(l) Advancement of the Plan of Implementation of the World Summit on Sustainable Development, including, inter alia, the elimination of destructive fishing practices, the establishment of marine-protected areas consistent with international law and based on scientific information, including representative networks by 2012 and time area closures for the protection of nursery grounds and periods, proper coastal land use and watershed planning and the integration of marine and coastal areas management into key sectors; and

(m) Conducting, in accordance with national legislation and international law, assessments in relation to marine activities likely to have a significant impact on the environment.

8. It was proposed that the General Assembly invite States to consider that improved application of an ecosystem approach will require, inter alia:

(a) Capacity-building through technology, knowledge and skills transfer, particularly to developing countries, including small island developing States and coastal African States, as well as exchange of information, data and lessons learned, and capacity-building in support of science, information management and exchange, monitoring, control and surveillance, assessment and reporting as well as through public outreach and education;

(b) Steps in the development of an ecosystem approach include identification of ecologically based management areas, assessment of ecosystem health, development of indicators, identification of the key environmental limits, monitoring, control, surveillance and reporting and adjustment of management measures, as appropriate;

(c) Monitoring the state of ecosystems supported by the use of data collection systems, analysis, and modelling to inform future management approaches;

(d) Addressing activities and pressures that lead to adverse impacts on marine ecosystems, including land-based pollution, overfishing, illegal, unreported and unregulated fishing, by-catch of threatened species, sea-based pollution, dumping, physical destruction and degradation of habitats, and introduction of invasive species;

(e) An iterative development of an ecosystem approach with an emphasis on integrated management of human uses of the oceans, which could be achieved, inter alia, through the strengthening of cooperation and collaboration among existing instruments, bodies and scientific research and advisory organizations;

(f) Targeted action to address root causes of activities that can undermine the conservation and integrity of marine ecosystems;

(g) Filling critical knowledge gaps and addressing uncertainty;

(h) Developing, raising and sustaining public awareness and institutional and political will;

(i) Improved cooperation and collaboration among international organizations, including better linkages between regional fisheries management and marine-related organizations and by encouraging all States whose vessels participate in a fishery regulated by a regional fisheries management organization or arrangement to cooperate by becoming members of such organization or participants in such arrangement, and, to this end, establishing mechanisms to promote non-member participation;

(j) Developing mechanisms to monitor and review ecosystem health and management effectiveness;

(k) Dissemination of information to the public on activities that negatively affect ecosystems and the ocean environment and their associated products;

(l) Improving, as appropriate, legal and policy frameworks to support and facilitate the application of the precautionary approach and ecosystem approaches; and

(m) Compilation of scientific and ecological criteria, inter alia, for the identification of marine-protected areas.

9. It is suggested that the General Assembly take note of the possible options, approaches and timely follow-up process discussed by the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction.

Part B

Co-Chairpersons' summary of discussions

Agenda items 1 and 2: Opening of the meeting and adoption of the agenda

10. The seventh meeting of the Consultative Process made reference to official supporting documentation: the annual report of the Secretary-General on oceans and the law of the sea (A/61/63), the format and annotated provisional agenda of the meeting (A/AC.259/L.7) as well as a submission by Canada (A/AC.259/16).

11. The meeting was opened by the two Co-Chairpersons, Cristián Maquieira (Chile) and Lori Ridgeway (Canada), who in her introductory statement outlined the programme of work of the seventh meeting, as well as the proposals of the Co-Chairpersons on how to organize the work and, in particular, on how to proceed with regard to the consideration of draft elements. In that regard, they proposed the

establishment of an open-ended Friends of the Chair Group under the leadership of Renée Sauvé of Canada, which would undertake a preliminary discussion on the draft elements proposed by the Co-Chairpersons prior to their consideration in plenary on 16 June.

12. The meeting approved the proposed organization of work as well as the format and annotated provisional agenda of the seventh meeting (A/AC.259/L.7), which was subsequently adopted.

13. The meeting was attended by representatives of 101 States, 24 intergovernmental organizations and other bodies and 16 non-governmental organizations.

Agenda item 3: General exchange of views on areas of concern and actions needed, including on issues discussed at previous meetings

14. During the discussions on agenda item 3, delegations addressed the area of focus "Ecosystem approaches and oceans" as well as other issues, including those discussed at previous meetings. The plenary and panel discussions on the area of focus are presented in paragraphs 20-103 below.

15. Other issues that were addressed in the course of the discussions included the following:

Report of the Secretary-General

16. A number of delegations expressed their appreciation to the Secretary-General and the Division for Ocean Affairs and the Law of the Sea (DOALOS) for the Secretary-General's report "Oceans and the law of the sea" (A/61/63). They highlighted the comprehensive nature of the report and the particular importance of the chapter on "Ecosystem approaches and oceans" for the discussions at the meeting. However, one delegation noted that the report did not sufficiently address the application of an ecosystem approach at the global level.

The Consultative Process

17. Delegations noted that the Consultative Process had thrived over the years and had become a forum that had increased substantially the understanding of the international community of cross-cutting issues and assisted in promoting greater interagency coordination and cooperation. The outcomes of the Consultative Process had also contributed to the General Assembly negotiations of its resolutions on "Oceans and the law of the sea" and "Sustainable fisheries".

Recent developments relating to international shipping

18. The representative of the International Maritime Organization informed the meeting about IMO legal instruments that have been adopted, including the Voluntary IMO Member State Audit Scheme, and others that had entered into force since the sixth meeting of the Consultative Process. He noted the slow pace of ratification of and accession to some IMO Conventions and the need for States to take necessary measures to ensure their prompt entry into force. He also mentioned that IMO was currently developing a legally binding instrument on ship recycling and undertaking a review of Annex VI of the International Convention for the Prevention of Pollution from Ships of 1973 and its Protocol of 1978. Regarding

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marine debris and discarded fishing gear, he stated that IMO was cooperating with the Food and Agriculture Organization of the United Nations (FAO) and the United Nations Environment Programme (UNEP) under a Global Environment Facility (GEF) project dealing with marine debris. He furthermore informed the meeting that IMO Assembly resolution A.979(24) on "Piracy and armed robbery against ships in waters off the coast of Somalia" had been brought to the attention of the United Nations Security Council, which had issued a Presidential Statement on 15 March 2006. He concluded by stating that, in response to General Assembly resolutions 58/240 and 58/14, IMO had convened an Ad Hoc Consultative Meeting of Senior Representatives of International Organizations on the "Genuine Link" and that the report of the meeting would be forwarded to the Secretary-General of the United Nations.

19. In this regard, several non-governmental organizations stated that the sixth meeting of the Consultative Process had confirmed that the lack of effective implementation and enforcement of flag State responsibilities was a critical shortcoming in the effectiveness of overall oceans governance and a serious impediment to the contribution of responsible fisheries to sustainable development. Consequently, they considered that the above-mentioned report of the Ad Hoc Consultative Meeting would benefit from a more detailed examination at the ninth meeting of the Consultative Process in 2008.

Area of focus: "Ecosystem approaches and oceans"

20. The area of focus — ecosystem approaches and oceans — was discussed in depth in four discussion panel segments (with one segment consisting of two parts), as well as in the plenary, during the consideration of agenda items 3 and 4. The discussions in each of the panel segments were launched by panellists. Abstracts of most panel presentations were posted on the DOALOS website in advance of the meeting, together with guidelines/possible perspectives for the discussion panel, prepared by the Co-Chairpersons. Owing to length constraints, summaries of the panel presentations could not be included in the present report. Available panel presentations and abstracts thereof can be consulted on the DOALOS website at www.un.org/depts/los/consultative_process/consultative_process.htm. Each of the panel segments comprised four presentations, which were followed by an active question-and-answer and discussion phase, during which States requested clarifications from the panellists or made statements regarding the presentations and/or their implications.

1. Panel presentations

21. During the first segment on "Demystifying the concept and understanding its implications", Salvatore Arico, Biodiversity Programme Specialist, Division of Ecological and Earth Sciences, United Nations Educational, Scientific and Cultural Organization (UNESCO), described the building blocks of a broad-based integrative ecosystem approach and the enabling components, stressed the importance of the integration of existing management approaches into a comprehensive plan with the ecosystem approach as its central framework, and emphasized the correct identification of all stakeholders, their interests and expectations. Simon Cripps, Director, Global Marine Programme, World Wildlife Fund International (WWF), explained how WWF approached and defined ecosystem-based management (EBM) of the oceans, and suggested 12 guidelines and steps that could assist in the

implementation of EBM, which would enable ecosystems, threatened species and associated target species to recover and restore and protect the health of the oceans. Hiroyuki Matsuda, Professor, Faculty of Environment and Information Sciences, Yokohama National University, Japan, in relation to the implications of EBM for traditional modelling parameters, explained his view that the classical maximum sustainable yield, a planning criteria referenced in UNCLOS, ignored such ecosystem characteristics as uncertainty, dynamic properties, complexity and evolutionary responses of the component species, and thus might not enable the implementation of an EBM approach. Steven Murawski, Director of Scientific Programs and Chief Science Advisor, United States National Oceanic and Atmospheric Administration, National Marine Fisheries Service, outlined ten common misperceptions regarding an ecosystem approach to management and indicated, by juxtaposing these myths and the realities that contradicted them, that ecosystem approaches could be implemented more easily and readily than may, at times, be perceived.

22. During the second segment on "Moving to implementation: implications for enabling elements", Jake Rice, Director, Canadian Science Advisory Secretariat, Department of Fisheries and Oceans, Canada, described the state of scientific preparedness for EBM, and emphasized the need to merge the different cultures and techniques in the sectoral provision of scientific advice with that of environmental science, so as to achieve agreed, integrated, objective and neutral advice, and to facilitate integrated global or regional marine assessments through broad-based teams of policy-independent but Government-supported experts. Serge Garcia, Director, Fisheries Resources Division, FAO, focusing on ecosystems and fisheries as an example of the role of sectoral approaches, described the evolution of fisheries management approaches to include ecosystem considerations, outlined how its implementation had progressed during the last five years and identified areas needing more effort, particularly at the regional and national levels, with strong support for developing countries. Michael O'Toole, Chief Technical Advisor, Benguela Current Large Marine Ecosystem Programme, focused on the role of ecosystem-wide integrative planning frameworks in describing the Programme, which is a joint initiative by the Governments of Angola, Namibia and South Africa sponsored by the Global Environment Facility (GEF), and explained how its multisectoral operational framework, which had originated from comprehensive consultations among stakeholders involved eight ministries with responsibilities for fisheries, the environment, minerals, mines and petroleum. John Richardson, Head, Maritime Policy Task Force, Directorate-General for Fisheries and Maritime Affairs, European Commission, highlighted an approach to the development of a multisectoral consultative strategy of relevance for the implementation of EBM, by describing the development of the European Union's Thematic Strategy on the Protection and Conservation of the Marine Environment and Green Paper on a future maritime policy.

23. During the first part of the third segment on "Lessons learned from implementation of ecosystem approaches at the national level in developed States", Campbell Davies, Principal Research Scientist, Marine and Atmospheric Research, Commonwealth Scientific and Industrial Research Organization, provided an overview of how Australia implemented EBM through regional planning approaches such as the establishment of the Great Barrier Reef Marine Park and the South-East Regional Marine Plan, and through ecologically based fisheries management.

Camille Mageau, Director, Marine Ecosystems, Conservation Branch, Department of Fisheries and Oceans, Canada, described the framework and tools Canada had developed to advance its implementation of an ecosystem-based approach to oceans management through the delineation of large oceans marine ecosystems, and the caveats and lessons that had been learned to date. Erik Olsen, Research Scientist, Institute of Marine Research, Norway, described the new integrated management plan for the Norwegian part of the Barents Sea and how it was based on an assessment of the current and future impacts of human activities on the ecosystem. Jóhann Sigurjonsson, Director-General, Marine Research Institute, Iceland, described how Iceland was implementing an ecosystem-based approach in fisheries management on the basis of single-species management and how such an approach would help move towards a full ecosystem-based management scheme.

24. During the second part of the third segment on "Lessons learned from implementation of ecosystem approaches at the national level in developing States", Cristian Canales, Head, Department of Marine Resources Assessments, Chilean Fisheries Research Institute, indicated that the Chilean experience with ecosystem approaches had started in the fisheries sector with programmes of data collection, and explained how monitoring of stocks had allowed for the identification of allowable catches and the regular adaptation of management models. Noah Idechong, Delegate, House of Delegates, Palau, highlighted his country's long history of stewardship of the marine environment as part of its indigenous culture, in particular regarding coral reefs and their species, but pointed out that, as a result of an unexpected coral bleaching event, Palau learned that it could no longer rely only on local knowledge and practices related to resource use but also had to incorporate contemporary scientific and management approaches. Tonny Wagey, Senior Scientist, Agency for Marine and Fisheries Research, Indonesia, explained how the Bali Plan of Action agreed to in 2005 by Asia Pacific Economic Cooperation (APEC) oceans-related ministers aimed at providing high-level political support through a broad strategic framework for substantial and concrete steps in the balancing of the sustainable use of marine resources and protection of the environment with economic growth and community sustainability, all of which embodied an ecosystem-based approach to coasts and oceans, and their resources. Porfirio Alvarez Torres, Ministry of Environment and Natural Resources, Mexico, described a new policy and how the process undertaken to draft legislation for sea-use planning for the Gulf of California had been participative, and integrative and involved complex governance structures to address a variety of ecosystem threats.

25. During the fourth and final segment, "International cooperation to implement ecosystem approaches at the regional and global levels", Alan Simcock, Executive Secretary, OSPAR Commission, described how and why the Commission had developed an ecosystem approach, what it involved, how it had become operational, and the role of ecological quality objectives in measuring effectiveness. Andrew Constable, Programme Leader, Antarctic Climate and Ecosystems Cooperative Research Centre, Australia and Australian Commonwealth Department of Environment and Heritage Australian Antarctic Division, Australia, described the evolution of the application of the precautionary and ecosystem approaches in the Commission for the Conservation of Antarctic Marine Living Resources, operational objectives, data collection programmes and methods for dealing with uncertainty, and compliance and enforcement activities. Tim Adams, Director, Marine Resources Division, Secretariat of the Pacific Community, described the institutional set-up of

the Council of Regional Agencies in the Pacific, the Pacific Plan, and the actions taken by intergovernmental agencies in the Pacific Islands region to assist countries to implement an ecosystem approach, particularly to fisheries management. Chua, Thia-Eng, Director, Regional Programme Office, Partnerships in Environmental Management for the Seas of East Asia, described his organization's structure and vast area of operation, the particular challenges faced in the region and how integrated coastal management had been used to mobilize partnerships among key sectors, emphasizing the role of demonstration projects in building an incremental approach to broader and more sophisticated frameworks and programmes.

2. Plenary and panel discussions

(a) Aim of an ecosystem approach

26. There was a significant convergence of views among delegations on many aspects of the area of focus. Delegations generally attached considerable importance to an ecosystem-based approach to oceans management and in seeking to progress in the understanding and application of the concept. It was emphasized that the long-term sustainability of marine ecosystems was a very high priority and that the international community urgently had to incorporate an ecosystem-based approach to oceans management, in view of the growing pressures on marine ecosystems and mounting evidence of actual destruction. It was emphasized that the ecosystem-based approach incorporated responsible sectoral management in an ecosystems context, as well as the integration of cross-sectoral activities. In this respect, many delegations stated that there was an urgent need to implement an ecosystem approach to fisheries.

27. Delegations noted that ecosystem approaches were essential for the sustainable development of oceans, given the role that the oceans play in supporting life, driving the climate and hydrological cycles, and in providing vital resources to ensure well-being, economic prosperity and food security, thereby helping to meet the social and economic needs of the poorest in particular. A number of delegations pointed out that the application of EBM should contribute to the achievement of the Millennium Development Goals, including the enhancement of the quality of life of coastal communities, harmonization between economic and social development, the sustainable use and conservation of marine resources, and social equity.

28. Regarding the objective of an ecosystem approach, it was noted by several delegations that the aim of ecosystem approaches was to manage the interaction between often conflicting environmental, economic and social values and interests in order to maintain the integrity of the structure and functioning of ecosystems, while also allowing the sustainable use of marine living resources. An ecosystem approach to the management of human activities provides a planning and management framework for balancing the objectives of conservation and sustainable use.

29. Many delegations underlined that ecosystem approaches should address the management of human activities affecting oceans and seas, and not the management of ecosystems per se.

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(b) Human activities and pressures that affect marine ecosystems

30. The need for coordinated management of multiple threats was highlighted by several delegations, as was the need to assess the impacts on marine ecosystems of all human activities. A particular challenge noted in that regard was to assess and address the cumulative effects of human activities.

31. While many delegations highlighted fisheries as one of the major activities affecting marine ecosystems, it was noted, at the same time, that almost all human activities influenced marine ecosystems and that focusing only on fisheries would not lead to adequate EBM. The importance of adopting an ecosystem approach, which included all sectors and did not only focus on the conservation and management of fisheries, was emphasized.

32. Other activities and pressures that were identified as potentially threatening to marine ecosystems were land-based activities, the exploitation of oil and gas, pollution from ships, marine scientific research, tourism, the introduction of invasive alien species, and climate change. Several delegations, furthermore, highlighted the deliberate dumping of waste and pollution from ships involved in the transboundary movement of waste or other hazardous materials, as issues which should have been more sufficiently addressed by the meeting. They stated that the activity of ships in areas within and beyond areas of national jurisdiction required careful monitoring when developing and implementing an ecosystem approach.

33. It was noted that EBM also offered an opportunity to address emerging threats to the oceans. In this regard, several delegations referred to the impact of ocean noise on the marine environment and the need to consider its cumulative effect within the context of ecosystem approaches to oceans management. One delegation called for States to join efforts in exchanging information on the impact of noise pollution and emphasized that it was primarily the responsibility of States to control this phenomenon. Reference was made to the need to carry out the studies referred to in paragraph 84 of General Assembly resolution 60/30. It was also noted that an ecosystem approach required that the assessment of the impacts of noise be based on a distinction between different types of noise, such as noise from shipping, the exploitation of oil and gas, or defence, as well as on the impacts of noise on key components of an ecosystem. A delegation noted that in the case of the Barents Sea, the impacts of noise from shipping, trawling and fishing had been assessed but were not found to be major.

(c) Legal and policy framework

34. A number of delegations emphasized that the Convention on the Law of the Sea provided the overall framework for discussions on ecosystem approaches and oceans, as it constituted the legal framework within which all activities in the oceans and seas should be considered. Its Preamble notes that the problems of ocean space are closely interrelated and need to be considered as a whole. The need to preserve the integrity of UNCLOS was underlined alongside the need to give priority to the full and effective implementation of its provisions. In this connection, the need for capacity-building for developing countries was underlined.

35. One delegation not a party to UNCLOS noted that it considered the Convention's provisions as constituting customary international law if they had been recognized explicitly through their incorporation into national legislation. However,

it participated in discussions in a spirit of cooperation in order to, inter alia, enable it to promote and enhance the comprehensive management of its coastal and maritime zones.

36. Several delegations pointed out that the ecosystem approach was already reflected or defined in various international instruments, such as the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the "United Nations Fish Stocks Agreement"), the Convention on Biological Diversity, the FAO Code of Conduct for Responsible Fisheries, the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem and the Convention for the Conservation of Antarctic Marine Living Resources. It was also pointed out that the Johannesburg Plan of Implementation encouraged all States to apply ecosystem approaches by 2010. Reference was also made to the important work on ecosystem approaches carried out under the Convention on Biological Diversity within FAO and IMO and in some regional fisheries management organizations. One delegation also referred to the activities of the International Seabed Authority. Reference was also made by some delegations to the importance of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and its review at the second Intergovernmental Review Meeting in October 2006 in Beijing. In addition, many States provided examples of how they had incorporated an ecosystem-based approach in their national legislations and national ocean/marine policies.

37. The representative of the Secretariat of the Convention on Biological Diversity (CBD) noted that in 2004, CBD developed operational guidelines for ecosystem-based approaches. He explained that the CBD encouraged States to adopt a thematic approach in presenting reports on water and biodiversity, for example, and that CBD's Source Book presented this information as well as a case-study database on its website. At the eighth Conference of the Parties, Governments had been requested to identify activities having adverse impacts on biodiversity and provide case studies to show the success of the ecosystem approach, which were to be reviewed at the ninth Conference of the Parties in 2008.

38. The representative of the International Maritime Organization (IMO) indicated that several IMO instruments and activities were contributing to the implementation of an ecosystem approach, including MARPOL 73/78, the International Convention for the Control and Management of Ships Ballast Water and Sediments, as well as the establishment of particularly sensitive sea areas, where additional protective measures could be applied to protect vulnerable ecosystems.

39. The representative of the International Hydrographic Organization (IHO) underlined the importance of hydrography to ecosystem-based approaches to management. Hydrographic data collected using modern technology and to standards specified by the IHO contribute nautical information that greatly reduces the risk of maritime accidents. These data could also be useful for habitat mapping and formed the essential spatial framework for other ecosystem measurements necessary for assessment and monitoring. The importance of coordination with States' hydrographic authorities to promote cooperation in the standardization of data collection was underscored.

40. The representative of the Secretariat of the Ramsar Convention on wetlands informed the meeting that the parties to the Ramsar Convention had adopted many resolutions on the application of an ecosystem approach in inland waters and coastal areas. At their ninth meeting in November 2005, States parties had adopted a resolution regarding fisheries and wetlands and underlined the need for cooperation between Ramsar and FAO in its implementation. It was commented that in order for the ecosystem approach to work it was important that ministries of tourism, maritime transport, fisheries, environment, development and others work together.

41. Attention was also drawn to the current work under the Mediterranean Action Plan to adopt a protocol to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) on integrated coastal management. A delegation pointed to instruments other than the Convention for the Conservation of Antarctic Marine Living Resources that had provided for an ecosystem approach in the Antarctic, in particular the Madrid Protocol on Environmental Protection to the Antarctic Treaty, which addressed land-based pollution and shipping, and the Convention on the Regulation of Antarctic Mineral Resource Activities, which addressed the exploration and exploitation of hydrocarbons.

(d) Implementation of an ecosystem approach

42. *Understanding the concept.* Delegations agreed that there was no internationally agreed single definition of an ecosystem approach. However, it was generally recognized that it was not necessary to agree on a specific definition nor on how much information was needed to pursue it, nor on the value judgements decision-makers should apply to it. Delegations defined the task of the Consultative Process as increasing a broad understanding of the concept and thus advancing the responsible management of the marine environment and its natural resources.

43. A number of delegations provided their understanding of the ecosystem approach based on their experience. Many States noted that an ecosystem approach enabled the integrated management of human activities based on the best available science about ecosystems, ecological interactions and the precautionary approach, in order to achieve the sustainable use of goods and services and the maintenance of ecosystem integrity (i.e., structure and function). For others, an ecosystem approach meant taking the protection of the ecosystem as the starting point, protecting ecosystems in their entirety: all species, communities and ecosystem functions in a given area, and acting with caution where knowledge was lacking. This implied that impact assessment was needed in advance to avoid undue harm to the environment. Activities would only be allowed to proceed if no harm were caused.

44. It was pointed out that there was a broad understanding of the concept and that the absence of an internationally agreed definition should not prevent States from implementing ecosystem approaches. There already existed a general consensus on various elements that were required for its implementation. In this connection, it was noted by several delegations that the ecosystem approach was well known to scientists, national policymakers and responsible sectoral managers, and had already been defined in various international instruments. Thus, the concept had already been widely accepted and applied, e.g., in coastal management. It was noted that it was important that each State formulate its own approach and gradually move towards implementation.

45. *Approaches to implementation*. Delegations stressed the need to address the implementation of ecosystem approaches in an integrated manner in view of the fact that marine ecosystems were interconnected. However, it was equally noted that there was no single way to implement an ecosystem approach. Flexibility was emphasized, depending on regional, subregional, national or local circumstances.

46. An evolutionary, pragmatic and adaptive approach to the implementation of ecosystem approaches was advocated by most delegations. Several delegations commented that many States had a long history, tradition and culture of protecting the marine environment, particularly in relation to fisheries management, and suggested that ecosystem approaches should build upon these experiences by deepening and broadening their application. At the same time it was noted that the more incomplete the knowledge or planning scale or approach, the more precautionary planning and management had to be. Several delegations stated that, in the light of the precautionary approach, environmental sustainability now had to be demonstrated, including through prior environmental impact assessments. In this connection, one delegation mentioned that they had adopted national legislation requiring fishery management plans to be accompanied by a formal environmental impact assessment.

47. *An ecosystem approach to fisheries*. A number of delegations underscored that as the global population grew and income levels increased, the demand for marine products had also increased and the role of fisheries in the world's food supply had been assuming an ever-increasing importance. Many delegations thus made reference to the need for sustainable fisheries. It was also pointed out that the conservation and sustainable use of marine living resources required an integrated and holistic approach, with conservation of non-target species in particular constituting an important pillar of EBM.

48. Challenges to the implementation of an ecosystem approach to fisheries management were addressed by a number of delegations. Some emphasized lack of ecosystem knowledge — the impact of fisheries on ecosystems, the dynamic interactions within ecosystems (perceived by some as the most serious knowledge gap), or the impact of ecosystems on fisheries. Some mentioned that the challenge rested frequently in managing the interactions between often conflicting environmental, economic and social values, and in maintaining the integrity of the marine ecosystem while also allowing the sustainable use of fish stocks. Others noted that addressing unsustainable fishing practices remained the principal challenge. Some delegations identified the move from the current practice of single-species management to ecosystem approaches based on multispecies management as a major challenge. Other delegations highlighted the need for capacity-building.

49. A number of delegations addressed the relationship between the ecosystem approach and maximum sustainable yield (MSY) as provided for in article 119 of UNCLOS. Some considered that MSY was consistent with an ecosystem approach but with a changed role and level as a management "target". It was pointed out by some that MSY was one reference point among other possible management reference points and that a multispecies fisheries management approach had to be taken. Another delegation pointed out that although MSY was an important benchmark it was not robust in dealing with uncertainties, which is why the delegation had recommended adaptive population management.

50. Some States described measures they had taken at the national level consistent with an ecosystem approach. Such actions, which also comprised community-based measures, included the restriction of destructive fishing practices, temporal and spatial closures, as well as monitoring, surveillance and control measures. It was noted by most delegations that the application of the precautionary approach was integral to an ecosystem approach to management, and that such considerations were currently being put in place to address uncertainty within fisheries management.

51. *Defining the ecosystem to be addressed.* It was pointed out that during the initial stages of the elaboration of an ecosystem approach, critical success factors included defining the ecosystem to be addressed and identifying key ecosystem variables so as to be able to monitor change. Some delegations noted that the most appropriate scale for the implementation of ecosystem approaches by States was their coastal and exclusive economic zones, and that regional approaches should be adopted for areas beyond national jurisdiction. Other delegations did not consider regional approaches to be sufficient (see also paragraphs 89-103).

52. *The role of science.* It was noted that ecosystem boundaries existed at all ecological scales, including in the deep sea, and that it was critical to begin implementing an ecosystem approach by making maximum use of the best available science.

53. Delegations agreed that scientific knowledge was very important for the successful implementation of ecosystem approaches. Several delegations noted the need to close the scientific knowledge gap. Efforts to manage human activities should be based upon the best available scientific information about marine ecosystems, and involve, particularly for areas beyond national jurisdiction, international collaboration, uniform data collection, and free access and sharing of scientific information whenever possible. It was further stated that, despite some elements common to all ecosystems, every ecosystem was unique in its specific components, interactions and functioning. Therefore, scientific observations were crucial for understanding how a marine ecosystem performed, how its components interacted, and changes in natural systems that might be anticipated as a result of specific actions. The importance of continuing marine scientific research throughout the world's oceans was strongly underscored in this regard.

54. Several delegations were of the view, however, that, while scientific knowledge was important, limited knowledge should not prevent progress in the implementation of an ecosystems approach, again pointing out the link between the implementation of an ecosystem approach and the precautionary approach. One delegation underlined that pragmatic, flexible and adaptive approaches based on a qualitative understanding of ecosystems were appropriate starting points. In this regard, monitoring and evaluation were critical components of an effective and adaptive ecosystem approach.

55. Some delegations underlined the importance of standardizing scientific data and making it widely available. Such dissemination would enable stakeholder access to broader relevant information in order to allow for informed discussions, thereby enabling transparency in the planning, implementation and monitoring processes. One delegation added that it was also necessary to determine which ecosystem services were critical and should be proactively maintained, even if their importance was currently unknown.

56. Some delegations emphasized that scientific knowledge needed to be integrated with a better understanding of human interactions with the ecosystems, across the various sectors, including how cultural and social factors influenced human interactions in various regions. The importance of integrating traditional knowledge with scientific information was underscored by some.

57. The need to develop improved scientific capacity and common scientific advisory processes in order to facilitate integrated and coherent decision-making in both fisheries and environmental organizations was also stressed by some delegations.

58. Several delegations raised the question whether the implementation of an ecosystem approach was mainly a scientific or political challenge. In this respect, it was observed that science could only assist in policy development, but it did not make policy. One delegation stressed that scientists were the primary providers of advice and, as such, should assist policymakers and stakeholders to operationalize objectives, be involved in the development of assessment and monitoring strategies and provide feedback on the negative effects of regulations.

59. It was pointed out by some delegations that transparent, participatory processes, in both the development and implementation phases of EBM, had proven useful when reconciling different views among the scientific community in the diagnoses of challenges faced by ecosystems and in devising solutions.

60. *Assessment and monitoring*. The need for effective impact assessments and monitoring was underlined by many delegations. It was stated that better tools were required for measuring the cumulative impacts of multiple activities on the integrity of marine ecosystems (including impact assessments and assessment criteria), to better enable the overall goal of maintaining healthy, productive and resilient ecosystems capable of continuing to provide sustained ecological services.

61. *Establishment of objectives*. The importance of science-based objectives and targets was stressed. Several delegations highlighted the need to develop shared ecosystem objectives in which to anchor appropriate management regimes, and to set measurable and shared objectives for key components of ecosystem health. They noted that ecological objectives should be measured by means of indicators and targets.

62. *Integrated management*. Requirements that were identified by several delegations for managing the oceans in a more systematic and integrated way included the need for policies that would move beyond better sectoral management to also integrate diverse uses of the oceans across different sectors, balancing social, economic and environmental concerns through integrated planning processes. This would imply the need for both modern sectoral management and intersectoral coordination. Sectoral and multisectoral approaches were not mutually exclusive in EBM. Also mentioned by some were: the need for better enabling legal frameworks nationally; the need for improved coordination and cooperation at the national and international levels; the need for improved law enforcement, monitoring and surveillance; and the need for transparency and accountability. It was noted that the implementation of integrated ecosystem approaches called for collaborative, inclusive, incremental and geographically specific management approaches. Furthermore, the complex and dynamic nature of ecosystems and the absence of complete knowledge or understanding of their functioning also necessitated an

adaptive management approach in integrated as well as sectoral planning. Several delegations pointed out that existing integrated processes and tools, such as integrated coastal zone management and the establishment of marine protected areas (MPAs) (see paragraphs 70-72 below) greatly supported the implementation of ecosystem approaches.

63. One delegation emphasized the need for enabling legislation to achieve an integrated oceans policy. Another delegation described some of the key features of such legislation, such as the identification of responsibilities for all stakeholders, involvement in decision-making, preferential use and guidelines on integrated management plans.

64. Some delegations noted that legislation, policies, and strategies were necessary but not sufficient. The need for political will to support precautionary planning and finance tangible measures to implement EBM, including science, adaptive management and enforcement, had been demonstrated in cases of successful implementation. Some delegations noted that one of the means used to sustain political will had been the establishment of a high-level stakeholder advisory group covering all major sectors, as well as the setting up of regional stakeholders' consultation groups.

65. *Stakeholder participation.* Several delegations emphasized that the involvement of all stakeholders, including especially indigenous populations, from an early stage, with enablement through institutional support, was key to identifying clearly defined goals so as to successfully implement ecosystem approaches. Legal and administrative foundations at the national level should enable participatory schemes. Many delegations pointed to the need a priori to identify and analyse stakeholders' needs and interests. In that regard, it was noted that there was a need to consider stakeholders' interests also at the level of single-species management, and not only at the level of multispecies management.

66. Some delegations said that cooperative processes for stakeholders' discussions, had proven useful in reconciling conflicting stakeholders' interests as well, including those of the fishing and oil and gas industries. It was also noted that, although, in some cases, there was no established mechanism or forum to address conflicting interests within or across sectors, the establishment of a common stewardship ethic was a fundamental aspect in reconciling conflicts.

67. The positive influence of stakeholders' participation in the policy implementation stages (not just planning) was highlighted by several delegations. It was observed that compliance was often more effective and less costly if relevant stakeholders were involved in the elaboration of management measures, which lead to enhanced ensured buy-in and the possibility of social pressure. Some delegations emphasized that in order to allow for meaningful stakeholder participation, importance should be placed on providing public education, including for local communities, in favour of conservation and sustainable use of ecosystems. This could include providing or discerning information on the short- and long-term market and non-market gains from the adoption of an ecosystem approach (or the costs of inaction). It was pointed out that such an approach was important in order to obtain local support for measures aimed at actually restricting certain activities. It was also important to inform local populations of the rationale for taking certain measures, in particular where the implementation of such measures would result in access restrictions for certain natural resources. Due consideration should therefore

be given to properly addressing public expectations and coastal livelihoods when developing ecosystem approaches at all levels. One delegation explained that both "top-down" (ecosystem-level planning) and bottom-up (activity-based planning) approaches to EBM provided complementary planning approaches, with bottom-up approaches being most helpful where scientific knowledge was weak or planning was very local.

68. The use of incentives to gain industry and community support was advocated by several delegations. It was noted that incentives could be provided through stakeholder involvement in experimental closure of areas, setting objectives and identifying success criteria, as well as through the issuance of permits and rights-based fisheries systems. In one case, public participation in EBM had allowed the expansion of MPAs. The importance of incentives in ensuring that industry complied with policies was also underlined. Some delegations cautioned that it was also important not to create disincentives for industry and private-sector participation.

69. A non-governmental organization emphasized the importance of involving the fishing industry, including their traditional practices, in decision-making processes relating to fisheries management, noting the significance of fishing industry involvement in resource use and conflict avoidance, particularly where regimes granted stable and tangible resource rights. It was noted that top-down legislative and regulatory regimes were necessary, but in many contexts they were not as effective as industry-led incentives, such as codes of conduct and non-regulatory co-management approaches, which fully engaged civil society.

70. *Marine protected areas*. It was indicated that MPAs were one of the tools for implementing an integrated cross-sectoral ecosystem approach, along with other sectoral time- and area-specific measures. It was remarked that the World Summit on Sustainable Development goal to establish global representative networks of MPAs by 2012 was important as it helped to overcome the largely sectoral management approach by addressing threats to marine ecosystems in a more holistic manner. The discussions relating to MPAs in areas beyond national jurisdiction are presented further in paragraph 99 below.

71. A number of delegations mentioned that they had passed legislation leading to the establishment of MPAs within areas under their national jurisdiction. One delegation pointed out that the meaning of an MPA was somewhat unclear as some of the reserves were absolute exclusion areas while others allowed for limited exploitation on a controlled basis. A delegation announced the official establishment, on 15 June, of the Northwestern Hawaiian Islands Marine National Monument. At the regional level, the 1995 Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean (1995 Protocol to the Barcelona Convention) was cited as a useful tool to implement an ecosystems approach in the Mediterranean Sea. One delegation noted that sanctuaries for marine mammals had also been established in the Mediterranean. Interregional cooperation among the Pacific Islands Forum States with regard to MPAs was also mentioned.

72. Some delegations highlighted the need for the following additional protective measures: a whale sanctuary in the Atlantic in order to allow whales to recover from the serious damage caused by commercial whaling; protected areas for warm- and cold-water coral reefs; and large closure areas to allow tuna to breed and recuperate

from overfishing. One delegation also highlighted the need for shipping-exclusion zones.

73. *Financial resources and capacity*. In response to the question raised by several delegations whether additional financial resources and capacity were needed to implement an ecosystem approach, it was generally agreed that they were, although one delegation suggested that the costs of implementation should be shared among all stakeholders and, in particular, in the case of fisheries management, the costs should be borne by *both* fisheries and environmental organizations. Existing resources should be utilized to identify and deal with incompatibilities within sectoral policies and to strengthen common goals. Such resources should also be used to further develop existing indicators to measure performance.

74. It was recognized that all States face capacity challenges, yet several delegations particularly underlined the need for capacity-building for developing States, in particular with regard to marine scientific research and transfer of technology. Developed countries were called upon to assume more responsibilities in assisting the capacity-building of developing countries and to share their scientific knowledge and technology. Some delegations stated that there was a need to strengthen monitoring and observation capacities and to standardize observation models for broad use, with such standardization also allowing data collected for one sector to be used across several sectors.

75. Some delegations noted the significant challenges, in particular for small island developing States, in attempting to balance national development objectives with coastal community livelihoods, particularly when livelihoods depended on traditional resource uses such as artisanal fisheries, for example. While many delegations generally agreed that there was a need for increased cooperation between developed and developing countries in the exchange of lessons learned, some cautioned, on the basis of this and other differences in context and capacities, that certain experiences and practices of developed States might not be directly transferable to developing nations.

76. It was also noted that not all knowledge transfer took place between developed and developing States. For example, one delegation noted that in the case of the Partnerships in Environmental Management for the Seas of East Asia, the expertise and resources of more advanced developing countries had been shared with other developing countries. Furthermore, successful partnerships also included public-private partnerships, where the private sector had contributed to the costs of specific activities. The value of pilot projects and their dissemination was highlighted by some delegations as a mechanism of the "learning-by-doing" approach, which was particularly useful for data-poor areas and which could be scaled-up to larger mechanisms over time as capacity developed. This example, alongside other large marine ecosystem (LME) projects discussed, also showed the important role played by GEF in enabling integrative initiatives in developing countries. It was noted by some delegations that LMEs fostered partnerships at all levels.

77. *Cooperation with neighbouring countries*. A requirement that was thus highlighted as important for successful EBM was cooperation with neighbouring countries. The importance of such cooperation, for example, through joint stock assessments and LME projects, was recognized by some delegations as particularly important also for small island developing States that are part of a larger marine

ecosystem and thus affected by various external factors operating on regional or larger scales.

78. Some delegations highlighted the success in cooperating with neighbouring coastal States, in contexts other than through formal regional organizations. Through such cooperation, eco-regions can be established, and measures can be and have been adopted to address illegal, unreported and unregulated fishing, the management of straddling fish stocks, community development and poverty alleviation. Challenges included the need for rigorous discussions to reconcile conflicting policies and different levels of capacity.

79. *International organizations and the ecosystem approach.* Broad international cooperation, as provided for under UNCLOS, was highlighted as key for the successful implementation of the ecosystem approach. It was emphasized by several delegations that there were a number of global and regional organizations, such as FAO, IMO, the International Seabed Authority (ISA) and regional fisheries management organizations (RFMOs), that have regulatory competence in areas beyond national jurisdiction and could therefore adopt binding decisions, within their current mandates, promoting EBM. However, many organizations have governance structures that are largely sectoral in nature, as they address only specific activities, species or geographical areas. It was noted that the implementation of ecosystem approaches should avoid fragmentation, and that the implementation agenda ought to be cooperative, not competitive, including among international organizations (see paragraphs 104-115).

80. The need for cooperation and coordination in the implementation of ecosystem approaches at all levels was emphasized by delegations. In that regard, several delegations called for effective cooperation and coordination across United Nations system ocean-related bodies and non-United Nations bodies, as well as with regional organizations. The critical importance of cooperation and coordination, particularly to avoid duplication of effort and to promote synergy was also highlighted by the Conference of the Parties to the Convention on Biological Diversity, as noted by the representative of that secretariat.

81. The need for greater sharing and exchange of experiences among regional fisheries management organizations and among regional environmental organizations was highlighted by several delegations. The representative of FAO indicated that RFMOs meet every two years at FAO to exchange information and foster collaboration, and also that a programme of collaboration was being developed between FAO and the UNEP Regional Seas Programme. The representative of UNEP/Global Programme of Action for the Protection of the Marine Environment from Land-based Activities further noted that the plans of the Regional Seas Programme were adaptive and multisectoral and could easily accommodate strategic partnership frameworks with other regional bodies, such as RFMOs and LMEs. Another example of cooperation that was provided by one delegation was the ongoing collaboration in the provision of scientific advice between the Benguela Current Large Marine Ecosystem (BCLME) and the South East Atlantic Fisheries Organisation. In this connection, another delegation underlined the need for adequate funding for the BCLME and the need for States to ratify the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean.

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82. The lack of financial resources for attending relevant meetings was identified by some delegations from developing countries as an obstacle to further increase collaboration among organizations.

83. *Progress in the implementation of an ecosystem approach by regional organizations*. Discussions highlighted the need for well-established governance systems in order to implement an ecosystem approach in a regional context. It was noted that in the case of OSPAR in the North-East Atlantic, it was the Commission that played a critical role in the implementation of an ecosystem approach. The representative of the Baltic Marine Environment Protection Commission highlighted the Baltic Sea Action Plan, which set strategic goals and ecological quality objectives for priority environmental issues as well as targets and indicators to measure progress towards these objectives. It was stressed by one delegation that regional organizations had also proved useful platforms for interaction between the scientific community and policymakers. In the case of the Commission for the Conservation of Antarctic Marine Living Resources, such collaboration had been promoted through the establishment of a Scientific Committee that provided advice to the Standing Committee. The Bali Plan of Action provided an Asia-Pacific Economic Cooperation framework for regional cooperation in the Asia-Pacific region.

84. Many delegations focussed their attention on progress to date in the implementation of the ecosystem approach to fisheries by RFMOs. It was noted that although most RFMOs followed a sectoral approach, they were nonetheless under an obligation to take ecosystem considerations into account and to protect marine biodiversity. Some delegations pointed out that, even in the fisheries context, some (or, for some, most) RFMOs had not yet fulfilled the role assigned to them under the United Nations Fish Stocks Agreement in applying the ecosystem and precautionary approaches. They considered that such RFMOs should be reformed in order to implement the provisions of the United Nations Fish Stocks Agreement. It was also pointed out that the membership of some RFMOs did not yet comprise all States fishing in their area of application. It was suggested by several delegations that there was a need to address a governance gap through the strengthening of existing RFMOs and the establishment of new RFMOs for areas where none existed.

85. Several delegations stressed that the implementation of an ecosystem approach on the high seas was the primary responsibility of flag States. They noted that, ultimately, the success of RFMOs lay in the fulfilment of the rights and responsibilities of their constituent members. The need for greater political will and enforcement of measures was highlighted by some delegations. They considered that States should work through RFMOs to ensure effective compliance.

86. Some delegations emphasized that, unless the root causes of overfishing were addressed, actions taken to implement ecosystem approaches remained merely emblematic. In this regard, delegations expressed support for the United Nations, FAO and regional initiatives with regard to the conservation and management of high-seas living resources. They stressed that it was only through collaborative efforts that the international community would be able to deal effectively with illegal, unreported and unregulated fishing and overharvesting, which were undermining the efforts of States that act responsibly and cooperate under international agreements to achieve a better management of resources through ecosystem approaches.

87. Successes in implementing ecosystem-based approaches adopted by regional fisheries management organizations were discussed using the Commission for the Conservation of Antarctic Marine Living Resources as an example. Challenges were also explored. Examples of successes cited were the implementation by its parties of the Commission's measures to address the mortality of seabirds in long-line fisheries, including through the use of on-board observers; the precautionary management of new and exploratory fisheries, including using vessel monitoring systems; on-board observers and catch-documentation schemes; and the establishment of a review process to assess compliance with regulations. It was noted that the Commission's secretariat had an important role in managing the implementation of regulations as it coordinated vessel monitoring systems, maintained catch-documentation schemes for toothfish, and had a role in managing catch limits. However, challenges, such as illegal activities by vessels flying the flags of non-Parties, and how to engage non-parties, remained.

88. The feasibility of replicating the Commission's experience in implementing an ecosystem approach to other regions was discussed. One delegation considered that the Commission's experience was unique in view of its context within the Antarctic Treaty system and could not be easily replicated elsewhere. Some other delegations however considered that, in spite of its unique context, the Commission's experience, provided a useful example. The strength of the Convention on the Conservation of Antarctic Marine Living Resources lay, among others, in the coverage of its measures, some of which extended beyond the Antarctic Treaty area. Furthermore, differences among parties had been accommodated in the interest of achieving common objectives, one of which was an ecosystem approach. One delegation recommended the Commission's approach to new and exploratory fisheries for use in other RFMOs and suggested that the General Assembly should endorse such an approach.

89. *International cooperation to implement ecosystem approaches at the global level.* Reference was made to the need for compatible approaches for high seas and areas under national jurisdiction. In this connection, one delegation stressed the need to adapt lessons learned at the national level in the application of an ecosystem approach for the high seas. However, it was noted by some delegations that there were different approaches and stakeholders in near-shore and off-shore areas and that, as a result, management approaches should also be different. It was also mentioned that, at a minimum, the lack of convening and management authorities for cross-sectoral planning for the high seas, compared to those authorities designated for waters under national jurisdiction, might dictate different approaches.

90. The need for a global integrated overarching framework for promoting and implementing EBM in the global marine environment was discussed. It was noted by some delegations that some RFMOs would be largely ineffective foundations for applying ecosystem approaches to oceans management since they have a fisheries sector focus. In this regard, it was noted by some that, since the existing legal framework was largely sectoral in nature and did not allow for an integrated impact assessment of human activities on the marine ecosystem in areas beyond national jurisdiction, the international community was facing a governance gap. Others argued that RFMOs should remain fisheries-focussed, with other mechanisms integrating across sectors. It was thus suggested by some delegations to draw a set of common principles from all the existing instruments that incorporated ecosystem approaches, and build a global legal regime that allowed for an integrated

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assessment of human activities and their interactions with the marine environment. However, as this effort would take time, during which the resources and biodiversity could be further depleted, some delegations argued that interim measures should be adopted as a high priority.

91. Addressing the need for integrated assessments, some delegations highlighted the importance of regional marine assessments for inclusion in the regular process of global reporting and assessment of the state of the marine environment, including socio-economic aspects. Emphasis was placed on the need for financial resources to support these efforts. One delegation requested clarification on the possibility of including information on ecosystem health in the FAO and RFMO reports on fisheries. In response, the representative of FAO explained that the FAO report presented to the Committee on Fisheries currently focused on the status of stocks rather than on ecosystems, because there was no mechanism for gathering information on ecosystems. However, he indicated that if the proper information flow were developed and resourced within the reporting architecture, such reporting could be provided approximately every five years.

92. Some delegations wondered if a global policy was really needed or appropriate. While some felt that it might reduce complexity, it was noted by others that regional organizations were already in place for fisheries, and that the regional approach described to the meeting seemed to be functioning well. The experience of the Commission for the Conservation of Antarctic Marine Living Resources was cited in that regard. Some delegations highlighted that the Commission's success was due to negotiations in good faith and to realizing that there are differences among States and that one need not wait to come up with a solution to all sectoral problems before taking at least some action.

93. It was pointed out that there was no body with oversight functions with regard to the high seas, and ideas were put forward by some on how best to address this situation. For example, for fisheries, a number of delegations underlined the need to establish RFMOs in areas where none existed. One delegation went further to propose the establishment of an ombudsman for the oceans, while one non-governmental organization called for an "Oceans Commission" to encourage and ensure that EBM was being implemented by Governments.

94. Several delegations noted the need to examine in more detail the implementation of ecosystems approaches in areas beyond national jurisdiction. They highlighted the importance of international cooperation with respect to the conservation and management of biodiversity in areas beyond national jurisdiction. One delegation underlined that all actions in this regard had to respect the provisions of UNCLOS.

95. Several delegations thus supported the continuation of the ad hoc open-ended informal working group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. One delegation suggested that the work of the group should also feed into the work of RFMOs. However, other delegations noted that the Consultative Process was not the appropriate forum to discuss matters relating to the ad hoc open-ended informal working group. It was the General Assembly which would consider such matters.

96. Several delegations called for an agreement to implement the UNCLOS provisions on the protection and preservation of the marine environment, which

would, in their view, provide for the conservation and management of marine biological biodiversity beyond areas of national jurisdiction, including the establishment, based on science and the precautionary principle, of marine protected areas (MPAs). They provided a list of possible elements for inclusion in such an agreement. Several non-governmental organizations considered that such an agreement should also provide a framework for addressing threats to the marine environment that were not currently adequately addressed or managed, such as plastic debris and high-intensity anthropogenic noise. They also pointed to loopholes with regard to ship ownership and the genuine link. Finally, they reminded the meeting that biodiversity had an intrinsic value that had to be considered.

97. The issue of the sharing of benefits arising from the exploitation and utilization of genetic resources was highlighted by several delegations as critical to any attempts to implement ecosystem approaches in areas beyond national jurisdiction.

98. Other delegations emphasized that the implementation of ecosystem approaches did not require any new instrument or institutions, but rather an enhanced and more coordinated implementation of activities under existing mandates and the existing legal framework.

99. *Protection of vulnerable marine ecosystems in areas beyond national jurisdiction.* The need to protect vulnerable marine ecosystems in areas beyond national jurisdiction was underlined by a number of delegations and especially non-governmental organizations. In that regard, several delegations supported the establishment of MPAs on the high seas. A non-governmental organization advanced the idea that a network of MPAs should be established to cover 30-50 per cent of the high seas. The creation of these areas was urged as a way to enable the development of baselines against which to measure the effectiveness of ecosystem approaches implemented outside the MPAs. Other delegations pointed out that the designation of MPAs on the high seas should be based on verified scientific knowledge.

100. Several delegations called for urgent action to halt destructive practices affecting vulnerable marine ecosystems. Some underscored that bottom trawling was widely recognized as a destructive and indiscriminate fishing practice that can destroy coral, sponge and other flora and fauna. Inadequate regulation of this practice in vulnerable or significant areas was inconsistent with an ecosystem-based approach. It was noted that an increasing number of States were either regulating or banning that practice within areas under their national jurisdiction, which had led to the fact that bottom trawling on the high seas had increased. A review of state and regional actions in implementing the relevant General Assembly resolutions is under way, with a report to be published by the Secretary-General in mid-July 2006. Some delegations called on existing RFMOs to do more to regulate or ban this practice, where appropriate. It was noted that the General Commission for Fisheries in the Mediterranean had banned bottom trawling below a depth of 1,000 metres. Some delegations expressed concern over the fact that only five RFMOs had the legal competence to regulate deep-sea bottom fisheries in their regulatory areas and of these only the Antarctic and South-East Atlantic RFMOs were specifically mandated to implement an ecosystem approach. For those delegations a moratorium on bottom trawling was considered a progressive step towards realizing EBM in the high seas where no other governance mechanisms existed.

101. However, other delegations were of the view that proposals for a moratorium on bottom trawling, without scientific evidence that such a moratorium would achieve the desired outcome, would not be acceptable, or was inappropriate for other reasons.

102. It was noted by several delegations that the Consultative Process was not the appropriate forum to discuss proposals relating to matters that would be discussed in the context of the negotiations of the General Assembly resolution on "Sustainable fisheries" on the basis of a report of the Secretary-General.

103. A non-governmental organization warned of the near-extinction of the leatherback turtle as a result of long-line fishing in the Pacific and called for a moratorium on long-line fishing. One delegation noted that the need for such moratorium would need first to be supported by scientific evidence.

Agenda item 4: Cooperation and coordination on ocean issues (mechanisms)

104. Under this agenda item, several delegations addressed the importance of cooperation and coordination in respect of the area of focus. Thus, these discussions have been included in paragraphs 20-103 above, which summarize the discussions on ecosystem approaches and oceans.

105. In addition, some delegations addressed coordination and cooperation more generally. The meeting received an update of recent activities of UN-Oceans and information on developments relating to the regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects (the "regular process").

106. *Cooperation and coordination in general*. It was agreed that better international cooperation is a top priority. Some delegations commented that there was a plethora of intergovernmental organizations involved in ocean affairs and also many national agencies addressing the corresponding issues; there was at present a serious coordination and cooperation gap among the organizations and agencies themselves and between and among national governmental bodies. By way of example, some noted that various national agencies sometimes received conflicting information from their respective international counterparts, and international organizations also receive conflicting advice from States through diverse national delegations. It was noted by some that States are responsible for ensuring the necessary cooperation and coordination among the various agencies at the national level and that their delegations should better cooperate and coordinate their work through international organizations. Such cooperation and coordination posed a challenge at the national level, where many departments might have oceans-related mandates but did not always work in a coordinated manner.

107. *UN-Oceans*. Patricio A. Bernal, Executive Secretary of the Intergovernmental Oceanographic Commission of UNESCO and Coordinator of UN-Oceans, the mechanism for coordination and cooperation among the secretariats of the organizations of the United Nations system related to oceans and coastal areas, mentioned that UN-Oceans had held four meetings since it had been established in October 2003 by the United Nations System Chief Executives Board for Coordination (CEB), the most recent on 9 June 2006. He explained that UN-Oceans had been pursuing its coordination work through task forces on (i) post-tsunami response; (ii) the regular process for the global reporting and assessment of the state

of the marine environment, including socio-economic aspects; (iii) biodiversity in marine areas beyond national jurisdiction; and (iv) the second intergovernmental review of the Global Programme of Action.

108. He informed the meeting that the Post-Tsunami Task Force members had contributed to the UNESCO/Intergovernmental Oceanographic Commission (IOC) International Coordination Meeting for the Development of a Tsunami Warning and Mitigation System in the Indian Ocean (Paris, March 2005) and identified specific areas of expertise to advance the implementation of such a warning system. Moreover, under the leadership of UNEP/the Global Programme of Action and the World Bank, the Post-Tsunami Task Force had developed "Twelve Guiding Principles for Charting Environmentally-Sound Coastal Rehabilitation", initially presented to Governments at a UNEP meeting in Cairo in 2005. The Guiding Principles were being further refined and would be published by UNEP with case studies for review by the affected countries and by international organizations in 2006.

109. Mr. Bernal pointed out that post-tsunami response work had been carried out under the able leadership of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the secretariat of the International Strategy for Disaster Reduction (ISDR) and the World Meteorological Organization, especially with respect to implementing a multilayered approach to natural disasters and supporting the development of national plans. Therefore and inasmuch as UN-Oceans task forces were ad hoc and time-bound, it was decided to discontinue the UN-Oceans Task Force on Post-Tsunami Response. Similarly, it was decided to discontinue the Task Force on the Regular Process, since General Assembly resolution 60/30, which had launched the start-up phase, the "assessment of assessments" with a 2-year time frame, had designated the IOC of UNESCO and UNEP as the lead agencies of the regular process. As a result, it did not appear necessary to continue the Task Force, whose work might have resulted in a duplication of the work of the secretariats of the lead agencies.

110. As regards the UN-Oceans Task Force on Marine Biodiversity beyond National Jurisdiction, Mr. Bernal noted that at its fourth meeting the members of UN-Oceans had agreed to the proposal for a joint leadership of the Task Force by the Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat and the secretariat of the Convention on Biological Diversity since it would promote coordination. The Division would coordinate the work relating to the tools available within the international legal regime to conserve and use marine biodiversity sustainably in areas beyond national jurisdiction; whereas the secretariat of the Convention on Biological Diversity would continue to coordinate the work relating to the global distribution of biodiversity (including genetic resources) in areas beyond national jurisdiction, as well as the status of that biodiversity and the threats that it is facing. In this connection, it was noted by one delegation that the Task Force should, in its work, take fully into account the positions of States and should respect UNCLOS.

111. As for the United Nations Atlas of the Oceans, which had been developed and maintained under the supervision and editorial responsibility of UN-Oceans with FAO as the project director, Mr. Bernal stated that the funds for maintaining the operation of the Atlas had now been exhausted and that without a minimum cost-sharing arrangement by the United Nations system, its future was in doubt. Against

that backdrop, the United Nations Atlas had been presented to the 11th session of the CEB High-level Committee on Programmes on 1 March 2006 as an example of United Nations horizontal collaboration on oceans. Mr. Bernal stated that the presentation had been well received. The High-level Committee had commended UN-Oceans for the Atlas and insisted that the initiative needed to be financially supported. Members of the Committee had expressed their regret that inter-agency collaboration was often not adequately acknowledged and backed up with requisite financing. The Chairman of the Committee had urged the organizations most directly concerned to make sure that the project was provided the necessary financial support to ensure its continuation.

112. *Regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects.* Salif Diop, Head, Ecosystems Section and Water Unit, Division of Early Warning and Assessment, UNEP, informed the meeting of the preparations that had begun for the start-up phase of the regular process, the "assessment of assessments", in accordance with General Assembly resolution 60/30 under the co-lead of UNEP and the IOC of UNESCO. He presented the results of the first meeting of the Ad Hoc Steering Group, which had been held from 7 to 9 June 2006 and co-chaired by Mexico and Australia. He mentioned that the draft report of the meeting was available for delegations and that all decisions reflected in the report had been reached by consensus. All United Nations agencies involved in the regular process, that is FAO, IMO, IOC of UNESCO, UNEP and WMO, had been present at the meeting as well as the International Seabed Authority. However, representatives from several nominated States had not attended the meeting. He emphasized that, if the regular process was to move forward, there had to be full participation by all interested States.

113. Mr. Diop reported that the meeting considered the criteria for the appointment of the group of experts (i.e., regional representation) and the preparation of the assessment. In that regard, the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection had indicated that it was prepared to provide experts for the survey and organize a workshop. The meeting had also discussed modalities regarding the participation of observers in the steering group, since both lead agencies had received queries from intergovernmental organizations and non-governmental organizations. The next ad hoc steering group meeting will take place near the date of the eighth meeting of the Consultative Process in 2007. Two main points will be discussed: first, completing the nomination process for representatives by regional groups, and, secondly, mobilizing resources.

114. Mr. Bernal, Executive Secretary of IOC of UNESCO, reminded the meeting that assessments were part of a decision and management cycle, and as such, were ongoing. Thus, the regular process should be regarded as an ongoing process that would provide an initial base-line and reference against which to note change and thus to adjust decision and management cycles accordingly. However, he noted that there needed to be effective cooperation and collaboration, including a lead agency, so as to ensure that the cycle was adaptive and remained effective.

115. In commenting on the update provided by the representative of UNEP and IOC, some delegations emphasized the urgent need for funding for the regular process and for the nominations of experts. One delegation underlined the importance of the independence of the experts and the need to ensure inclusiveness. It also stressed the importance of nominating experts by July 2006, particularly

given the very short time schedule, and the urgent need to mobilize resources, in view of the next meeting being in October 2006 and the fact that the start-up phase would last only 24 months. That delegation noted that the start-up phase might need to be extended for another 24 months so as to ensure adequate results.

Agenda item 5: Identification of issues for further consideration

116. On the basis of the list of issues contained in Part C of the reports on the work of the Consultative Process at its fourth, fifth and sixth meetings (A/58/95, A/59/122 and A/60/99, respectively), the Co-Chairpersons prepared a composite streamlined list of issues that could benefit from attention in the future work of the General Assembly, which they presented to the seventh meeting. The issues were presented in the same order in which they appeared in Part C of previous reports of the Consultative Process. The position of an issue in the list was not intended to indicate any order of priority. The composite streamlined list of issues prepared by the Co-Chairpersons is available on the Division of Ocean Affairs and the Law of the Sea website at www.un.org/depts/los/consultative_process/consultative_process.htm.

117. Delegations were invited to submit proposals for additional issues in writing to the Secretariat. Additional issues proposed by delegations during the seventh meeting are set out in paragraph 118 below.

Part C

Issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea

118. There was agreement that the list of issues identified at the six previous meetings of the Consultative Process remained valid. Additional issues suggested at the seventh meeting were:

(a) Social aspects of oceans and the law and the sea;

(b) Maritime security;

(c) Maritime security and flag State responsibility; and

(d) Climate change and oceans.